

In The United States District Court
For The Middle District of Pennsylvania

Robert J. Murray
Plaintiff

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Amended Complaint
Civil Actions No. 4:21-cv-00122

Gene Clark, corporal Wyoming County Jail
Mr. Mirach, Sargent Wyoming County Jail
Mr. Rosenbaum, corporal Wyoming County Jail (added)
Mr. Wildenstein, corporal Wyoming County Jail (added)
Mr. Polluck, corrections officer Wyoming County Jail (added)
being sued in their individual capacities
Defendants

I. Jurisdiction and Venue

- ① This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States. The court has jurisdiction under 28 U.S.C. Section 1331 and 1343 (a)(3).
- ② The Middle District of Pennsylvania is an appropriate venue under 28 U.S.C. section 1331 (b)(2) because it is where the events giving rise to this claim occurred.

II Plaintiff

③ Plaintiff Robert J. Murray, was at all times mentioned herein a prisoner of the Wyoming County Correctional Facility. He is currently confined in the State Correctional Institution in Dallas, Pennsylvania.

III Defendants

④ Defendant Mr. Rosenbaum a corporal at the Wyoming County Jail who, at all times mentioned in this complaint, held the rank of corporal and was assigned to the Wyoming County Jail.

⑤ Defendant Mr. Wildenstein a corporal at the Wyoming County Jail who, at all times mentioned in this complaint, held the rank of corporal and was assigned to the Wyoming County Jail.

⑥ Defendant Mr. Polluck a corrections officer at the Wyoming County Jail who, at all times mentioned in this complaint, held the rank of prison guard and was assigned to the Wyoming County Jail.

7. Each defendant is sued individually and in his own capacity. At all times mentioned in this complaint each defendant acted under the color of state law.

⑦ Defendant Gene Clark a corporal at the Wyoming County Jail who, at all times mentioned in this complaint, held the rank of corporal and was assigned to the Wyoming County Jail.

⑧ Defendant Mr. Mirach a sergeant at the Wyoming County Jail who, at all times mentioned in this complaint, held the rank of sergeant and was assigned to the Wyoming County Jail.

⑨ Each defendant is sued individually and in their own capacities. At all times mentioned in this complaint each defendant acted under color of state law.

IV. Facts

⑩ The ill fated day in question was Friday January 25, 2019 while I was incarcerated at the Wyoming County Jail. I was housed downstairs in A-Block.

⑪ Upon information and belief my neurologist Lonnie Stethers from Guthrie Hospital in Sayre, Pa. said they really screwed up by not getting me immediate medical attention even after I told Rosenbaum I thought I was having a stroke. He also said it was a huge mistake not providing me with physical and occupational therapy that was recommended by Geisinger.

⑫ I know it's not their fault I had the strokes but it is their fault that they choose to do nothing about it. Their decision that day cost me everything. Nobody knows how scary it is to be laying there all day in severe pain, not knowing if you were gonna live or die. Almost as bad as the pain and suffering was physically and mentally, was knowing that no one really gave a damn if I lived or died.

⑬ Their total disregard for my well being has ruined the rest of my life, as I'm disabled now. All day everyday my right side aches and nothing can be done about it. I have uncontrollable muscle spasms everyday. I have to use a cane, I have no balance, and have sleep apnea. I have to sleep with a machine so I don't die in my sleep. And that's just the physical aspect of my everyday life.

⑭ The mental and emotional part of my life is as equally painful. I have nightmares to this day about laying in my cell thinking I was gonna die and die alone. Thinking my little girl was going to have to grow up without her Dad. That was a terrifying thought. I feel worthless, I won't be able to support myself or my daughters. More than likely I'll have to live with my son the rest of my life. That just isn't fair to me or especially to my son.

⑯ Not only did their incompetance destroy my life physically, mentally, and emotionally but also financially. Their incompetance cheated me out of at least another 15-20 years of union wages. Which equates to a higher pension and higher social security benefits, significantly higher. That's all gone now. I don't have much to look forward to now. My income from S.S. is \$1887.00/month. (refer to exhibit A) That just sucks, I've busted my butt my whole life and now I'll have to sponge off my son and more than likely collect welfare for the rest of my life in order to just survive. (Refer To Exhibit A)

⑯ It really angers me and makes me sick to my stomach to think upon information and belief that all this could've been averted if it wasn't for the negligence and incompetance of the defendants. All that needed to be done was to call the paramedics at 7:00 a.m. when I told Rosenbaum something was seriously wrong with me and that I thought I was having a stroke. But they never got called until 11:30 p.m. - midnight. That's 17 hours later. The decisions made that lead up to no one calling the paramedics for 17 hours were callous, malicious, and just plain evil in my opinion. This cannot be allowed to happen again. As soon as the paramedics were finally called the E.M.T. knew immediately I had suffered a stroke.

⑯ The facts will show how my Eighth Amendment Right granted by The Constitution of The United States of America prohibiting cruel and unusual punishment was in fact violated multiple times.

⑯ The facts will also show how said defendants grossly demonstrated deliberate indifference to my serious medical needs. Not just once, but over and over again. For 17 hours I was forced to lay in my cell and endure the worst pain I'd ever experienced in my life. Just try to imagine the horror going through my mind for that 17 hours I helplessly laid there. (refer to exhibit B)

⑯ The events and facts of that day are as follows. I woke up that morning at 6:30 am. and knew immediately something was seriously wrong with me.

⑯ At 7:00 am. I staggered out for breakfast and I barely made it. It's only maybe 20'. I took one bite of my toast and knew I was gonna be sick. So I wobbled back into my cell and threw up profusely.

⑯ Rosenbaum came into my cell to check on me and I told him there is something ^{seriously} wrong with me. I said my vision is messed up, can't hardly walk, I'm vomiting, and I have a head ache like you wouldn't believe, the worst ever. (All signs

and symptoms of a stroke) I told him I thought I might be having a stroke. He said he'd tell Corporal Clark. Even a lay person with minimal common sense would alert the medical department first.

(22) He walked out and left me laying in my cell. Corporal Clark was in charge of the first shift that day. I'm assuming he made her aware of my condition like he said.

(23) Not a single guard or nurse came into my cell to check on me, until Rosenbaum came in a little before 1:00pm, to tell me I had court. He asked how I felt and I told him I think I had a stroke or still am, I can't walk. Right then and there my safety should've been Rosenbaum's top priority. He should've called the paramedics himself or at the very least got someone from medical to examine me.

(24) But instead of doing the humane thing he left and came back a few minutes later with C.O. Polluck and they physically had to carry me to the library for court via the computer. It was so obvious that something serious was wrong with me that even a child would be able to see I needed a doctor. Obviously Rosenbaum wasn't gonna do a damn thing to help me. But Polluck had every opportunity to do the right thing but he chose not to. What type of a poor excuse for a human being doesn't lift a single finger to help another person in serious need of medical attention. Especially when it is part of their job. Or maybe

it was because his girlfriend was the daughter of corporal Clark. Regardless, Pollack just like Rosenbaum should've help me. It is both of their civil duties as corrections officers to care for the inmates. I guarantee if I got really disrespectful and vulgar toward them I would immediately be put in the hole.

(25) when court ended they both carried me back. When we got back to the block it was about 1:30pm. Clark and the nurse were handing out afternoon meds. Rosenbaum said to Clark "there's something wrong with Murray, he thinks a stroke, what do you want us to do with him?" At that point it had to be quite obvious something was wrong considering they were still holding me when he told Clark about my condition. Again they both damn well knew something was wrong with me and they should've done their jobs.

(26) she had the audacity to say "there's nothing wrong with him, throw him back in his bed. That's where he's been all morning anyway." I was appalled, I'll never forget that for as long as I live. She sounded so callous and cold. She showed no empathy or compassion toward me at all.

(27) They threw me back in bed like they were told to and went on about their business. Her and the nurse sounded like teenagers, giggling, laughing, having a good ole' time. While I layed there in agony. I honestly thought I was gonna die. It was like I didn't even exist to them. Corporal Clark

nor the damn nurse couldn't be bothered to walk the 20' into my cell and check on my well being. They both should've lost their damn jobs.

②8 I wasn't sure if corporal Wildenstein was made aware of my condition when he came in or not. Wildenstein was in charge of second shift that day. Then around 5:30 pm. this guard they called Tennessee came in my cell and asked me how I was feeling? I told him there was something seriously wrong with me, I think I had a stroke. So that makes me believe second shift was made aware of my condition. Tennessee then told me he thought the nurse had already left, but he would check.

②9 I didn't see him again until about 7:30. That's 12½ hours that staff was aware of my condition and everyone choose to do nothing. Tennessee came in my cell again and I didn't give him a chance to say anything. I flat out told him I need to go to the hospital right away. He said he would tell Wildenstein.

③0 I continued laying there until Wildenstein finally showed up at 9:30 pm. That's 14½ hours that staff knew about my condition and did nothing at all to help me. Not once did medical personnel or anyone else

for that matter examined me. Any way Wildenstein says "Murray, you don't look very good."

(31) He told Tennessee to get a wheelchair and take me to the nurse's office. We got there and obviously there was no nurse or anyone in the medical field at all. He tried to take my blood pressure but he said he couldn't get it to work. Then Wildenstein said "I have to call the nurse to see what she wants me to do." Wildenstein is also the person that took my BP. or tried to I mean. Obviously he knew what my condition was and he should've examined me as soon as he came on duty. Then called the ambulance. Or at the very least called the paramedics when he told me I didn't look very good. Surely Corporal Clark made him aware of my condition when they changed shifts. I would think it would be common practice for shift commanders to let each other know what was going on the shift before the shift they were about to start.

(32) Anyway Wildenstein argued with the nurse for at least 2 hours while I sat there suffering. Finally he says there's "definitely something wrong with Murray; I'm calling the ambulance" and he did.

③③ The paramedics got there about midnight. That's 17 hours before anyone from the medical field examined me. As soon as the E.M.T's loaded me in the ambulance, the one treating me said this man had a stroke.

③④ They gave me something for the pain and it was pretty much a blurr after that. I know we went to some hospital other than Geisinger but I don't know which one. I do remember not being there for very long, then we went to Geisinger.

③⑤ I don't remember much until Sunday morning other than them inserting the catheter. I'd say it's pretty hard not to remember that. I wanted to call home and talk to my family, I didn't know if I was gonna make it. I was scared to death. All I could think about was my children. Then to make matters worse the guard said I wasn't allowed to call. If I died they would notify my family. So I said to him that's so messed up that I have to have you at my bedside if die. I didn't die because I sure remember them taking that catheter out. It's pretty scary stuff to think it's a very good possibility that you might die alone.

③⑥ On 1-29-19 between 2:00-3:00pm I was waiting to be discharged, myself and sargent Mirach that is.

The nurse asked Mirach if the jail was equipped well enough for my care and rehab? He flat out lied to her and said yes. All they had there was a room about 10'x15' that they called the nurse's office. It had a desk, small cupboard on the wall, a scale, and a small filing cabinet.

⑦ When we got back to the jail it was around 4:00pm. and as soon as I walked, I guess hobbled inside with my walker, Mirach threw my right in the hole for 6 days. I guess that was rehab and punishment all together. I never received physical and occupational from any therapist at the jail nor did they take me anywhere for my therapy like was recommended by Geisinger. That is criticle for any stroke victim if there is any hope of a full recovery.

⑧ It is "Upon Information and Belief" that Wyoming County Jail has no emergency medical plan, or any medical ^{plan} at all. The defendants, the original two and the three that I hope the honorable judge Brann allows me to add as defendants. Because they to are responsible for the condition I'm in now. And its crystal clear that all 5 defendants had no medical training or even basic first aid training. I can only imagine that the jail doesn't require or provide it to the employees.

Or they have total disregard for the rules, regulations, and procedures of the county, state, and the rights of every American Citizen, even inmates, provided by the Constitution of The United States of America. And nobody is held accountable at that place. I'm curious to know if in fact its standard procedure to place inmates in solitary confinement (the hole) when they get out of the hospital and to not follow the recommendations of a highly accredited hospital such as Geisinger? I've sent out interrogatories on 12-23-21 asking the opposing counsel for information on the inquires about #38.

(39) I've attached exhibits ~~A-I~~ to the back of the amended complaint.

V. Exhaustion Of Legal Remedies

(40) It was impossible to follow this procedure. All this happened unexpectantly and all the damage was done while I laid in my cell for 17 hours.

VI. Legal Claims

(41) They ignored my medical emergency repeatedly over 17 hours which constituted deliberate indifference to my serious medical need. This violated plaintiff Robert J. Murray's rights and constituted cruel and

unusual punishment, a due process violation under the Eighth Amendment to the United States Constitution.

④② The plaintiff has no plain, adequate, or complete remedy at law to redress the wrongs described herein.

VII Prayer For Relief

Wherefore, plaintiff respectfully prays that this court enter judgment granting plaintiff:

④③ A declaration that the acts and omissions described herein violated plaintiff's rights under the Constitution and law of the United States.

④④ Compensatory damages in the amount of \$500,000 each. Against defendants Mirach, Clark, Rosenbaum and Wildenstein, jointly and severally. In addition \$250,000 against defendant Pollack.

④⑤ Punitive damages in the amount of \$100,000 each. Against defendants Mirach, Clark, Rosenbaum and Wildenstein. In addition \$50,000 against defendant Pollack. This type of inhumanity cannot be allowed to continue there.

④⑥ A jury trial on all issues triable by a jury.

④⑦ Also the plaintiff's costs in this suit.

④⑧ Any additional relief this court deems just, proper, and equitable.

Dated: January 20, 2022

Respectfully submitted,

Robert J. Murray

#QA2794

SCI-Dallas

1000 Follies Road

Dallas, Pa. 18612

Verification

I have read the foregoing complaint and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct.

Executed at Dallas, Pennsylvania on January 20, 2022

Robert J. Murray
Robert J. Murray

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